

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PATRICK TRACY, on behalf of himself  
and all other employees similarly situated,

Plaintiff,

ORDER

04-CV-6541L

v.

NVR, INC.,

Defendant.

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The following matters having come before the Court with the assent of the parties on the subjects addressed below, it is hereby ORDERED as follows:

Defendant NVR, Inc. (“NVR”) shall provide the names and last known mailing addresses of the members of the class that the Court conditionally certified pursuant to 29 U.S.C. § 216(b) on June 14, 2007 (the “Putative Class”) to counsel for Plaintiffs, Dolin, Thomas & Solomon LLP (“DTS”) on or before January 25, 2008. NVR shall provide this information to DTS by email in an MS Excel spreadsheet or in any other format agreed to by the parties.


Within three (3) business days of its receipt of the information provided by NVR pursuant to the preceding paragraph, DTS shall send by First Class U.S. Mail, in an unmarked envelope bearing only the name and address of the addressee and the return address for DTS, one (1) copy of the notice and opt-in form attached hereto as Exhibit A (“the “Notice”) to each member of the Putative Class at the address provided by NVR, and a postage pre-paid return envelope addressed to DTS. DTS shall include no additional materials in this mailing to members of the Putative Class.

Members of the Putative Class who have not joined the action as of the date of this Order shall be allowed to file consents to join this action provided they have deposited their consents in the U.S. Mail on or before March 28, 2008 (the "Opt-in Period"). The postmark date shall serve as presumptive proof of the date of deposit. Members of the Putative Class who have not mailed consents to join this action on or before March 28, 2008 shall not be allowed to participate in this action, unless the Court so orders, or the parties stipulate to allowing additional individuals joining the action after the Opt-in Period has closed.

After receipt of the names and last known mailing addresses of the members of the class that the Court conditionally certified, DTS may conduct internet-based research to determine other possible valid addresses for the addressees. DTS shall not attempt to telephone, email or otherwise contact members of the Putative Class in attempting to verify such addresses.

During the Opt-in Period, DTS may skip-trace the addresses of the names provided by NVR. If it comes across an address it believes may be a more current address of a Putative Class member, it may mail by First Class U.S. Mail to that address one (1) additional copy of the Notice (in the form and manner specified for the original Notice), and a postage pre-aid return envelope addressed to DTS, and nothing else, and inform NVR of that new address and that a mailing was made to that new address. However, it may not provide multiple mailings to any address.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
January 10, 2008.